

## EXHIBIT “E”

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May 3, 2005

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*Via Facsimile to 808 599-2979*

**Re: Wayne Berry v. Hawaiian Express Service, et al.,  
Civ. No. CV03-00385 SOM-LEK**

Dear Mr. Matsui:

I am writing regarding Mr. Capozzola's letter dated today. Mr. Capozzola's plan to regarding the Guidance Software, Inc. ("Guidance") materials is unworkable. First, as to the large list of files, unless Mr. Berry can see the files he can't make the final identification. It is clear that all that Mr. Capozzola will accomplish is to obtain more information so that he and his client (including C&S for whom he is ghost writing) and presumably Guidance can destroy more evidence. Unless the PCT and/or C&S provides the inventory of the present files on the remaining computers, we will no doubt hear that no files remain on the computers upon the release of additional evidence to them. The Master should not require that Mr. Berry become an accomplice to his own victimization.

The record in this case and that which is being developed make it abundantly clear that the Fleming-PCT has been engaged since the spring of 2003 in a concerted and massive destruction of material evidence that was all done during the pendency of a formal SEC investigation, a publically traded company bankruptcy, the first case and/or this case. The Master should order Guidance to turn over all the images immediately without condition.

As to the order to turn over the version of the Berry database that Fleming used from March 7, 2003 to June 9, 2003, that version was destroyed by Fleming and Guidance as set forth in the declaration of Wayne Berry that will follow. The number of deleted Kmart files and other files that show in the Guidance material that were scrubbed prior to the alleged Guidance forensic operations, makes the preservation of this evidence (out of Guidance's hands) an absolute necessity.

Clyde W. Matsui, Esq.

May 3, 2005

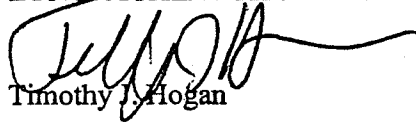
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We recommend that the Master order the complete Guidance materials produced immediately to the Master. The rest of this can wait, but preservation is absolutely necessary and cannot admit of delay.

As to the admission that Fleming transferred Mr. Berry's works to C&S, the prior admissions speak for themselves.

Very truly yours,

LYNCH ICHIDA THOMPSON KIM & HIROTA



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